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Hearing Date: TBD

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Services Company

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

In re

DELPHI CORPORATION, et al.,

Debtors.

Chapter 11 Case No. 05-44481 (RDD)

(Jointly Administered)

**RESPONSE OF HEWLETT PACKARD FINANCIAL SERVICES COMPANY TO
DEBTORS' TWENTIETH OMNIBUS OBJECTION TO THE ALLOWANCE OF
CERTAIN CLAIMS**

Hewlett Packard Financial Services Company ("HPFS"), by counsel, Sills Cummis Epstein & Gross P.C., hereby submits its response to the Debtors' Twentieth Omnibus Objection to the Allowance of Certain Claims (the "Claims Objection") and represents as follows:

Background

1. On or about October 8 and 14, 2005, the above captioned debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.
2. HPFS is a creditor of the Debtors and timely filed its proof of claim in the Chapter 11 cases. The claim, in the amount of \$953,280.40 was assigned claim #10683.

3. On or about August 24, 2007, the Debtors filed the Claims Objection. Included in the Claims Objection as a claim subject to modification was HP's claim # 10683. Specifically, the Claims Objection seeks to reduce the claim from \$953,280.40 to \$166,000.

4. The Debtors have provided no support for their contention that HPFS' claim should be reduced.

5. HPFS' claim is based upon amounts due from the Debtors under Master Lease No. 412666250 and five (5) lease schedules executed in connection therewith pursuant to which the Debtors leased certain computer equipment. Three of the lease schedules expired during the pendency of the Chapter 11 cases but the Debtors have continued in possession of the leased equipment. The claim as filed represented all amounts due under the Master Lease and lease schedules as of the date of the commencement of the Chapter 11 cases and through the expiration date (one lease was already expired and had incurred Usage Past Maturity charges at the time HPFS filed the POC in late July 2006) of the lease schedules .

6. Attached hereto as Exhibit "A is a schedule reflecting the pre and post-petition amounts due from the Debtors under the Master Lease and lease schedules. As reflected on Exhibit "A", as of September 18, 2007, the Debtors owe rent obligations to HPFS totaling \$447,898.41, of which total \$171,514.12 represented rent obligations owed as of the commencement of the case and \$276,384.29 represented rent obligations incurred post-petition.

7. Attached hereto as Exhibit "B" is a schedule reflecting personal property and/or use tax obligations due HPFS pursuant to the Master Lease and lease schedules. As reflected on Exhibit "B, as of September 18, 2007, the Debtors owed tax obligations to HPFS totaling \$96,748.60, of which total \$80,727.63 represented tax obligations owed as of the commencement of the case and \$16,022.97 represented obligations incurred post-petition.

8. As reflected on Exhibits “A” and “B” the total obligations due HPFS as of September 18, 2007 were \$544,647.01, of which \$252,239.75 represented pre-petition obligations and \$292,407.26 represented post-petition obligations.

9. Section 502 of the Bankruptcy Code provides for the allowance of claims or interests in a bankruptcy case. As a general matter, a claim, proof of which is properly filed, constitutes *prima facie* evidence of the amount and validity of a claim, and is deemed allowed unless a party in interest objects. *See*, 11 U.S.C. § 502(a); *In re Rockefeller Center Prop.*, 241 B.R. 804 (Bankr. S.D.N.Y. 1999); *In re Woodmere Investors Ltd. P'ship*, 178 B.R. 346 (Bankr. S.D.N.Y. 1995); *In re Stallings*, 118 B.R. 387, 390 (Bankr. D.S.C. 1989); *aff'd*, 1989 WL 180888 (D.S.C. Dec. 12, 1989); *aff'd*, 914 F.2d 249 (4th Cir. 1990).

10. The party objecting to a proof of claim has the initial burden of proof to rebut the *prima facie* validity of a properly filed proof of claim. *See In re Mid-American Waste Systems, Inc.*, 284 B.R. 553 (D. Del. 2002); *In re Field*, 226 B.R. 178, 182 (Bankr. D.S.C. 1998). In order to overcome the presumption of validity that attaches to a properly filed proof of claim, a party objecting must produce substantial evidence. *In re Micro-Precision Technologies, Inc.*, 303 B.R. 238 (Bankr. D.N.H. 2003). Indeed, bald assertions or conclusory statements are insufficient to rebut the presumption of validity. *See In re Hollars*, 198 B.R. 270 (Bankr. S.D. Ohio 1996).

11. HPFS's Proof of Claim was timely filed. The Debtors have not articulated any legal or factual basis for the reduction of the claim.

12. Should the Debtors assume the Master Lease and lease schedules as is apparently their intention under their Plan of Reorganization, they will be required to cure the pre-petition obligations in full as well as paying all post-petition obligations that are or become due. Should

the Debtors reject the Master Lease and lease schedules, HPFS is entitled to the allowance of a pre-petition claim in the sum of \$252,239.75 and the payment in full of all sums that are due or become due post-petition as an expense of administration.

WHEREFORE, for all of the foregoing reasons, HPFS respectfully requests that this Court enter an Order (i) overruling the Omnibus Objection as to HPFS, (ii) allowing the HPFS pre-petition claim in the sum of \$252,239.75, and requiring the Debtors to pay all post-petition obligations due HPFS as an expense of administration and (iii) granting such other relief as the Court deems just.

Dated: September 19, 2007

By: /s/ Charles N. Panzer

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EXHIBIT A

Report Title: Contract List

Customer: Delphi Automotive Systems LLC (123514939)

<u>Contract #</u>	<u>Commence Date</u>	<u>Maturity Date</u>	<u>Term</u>	<u>Rem. Term</u>	<u>Total Rent Due Thru</u> <u>9/30/2007</u>	<u>Pre-Petition</u>	<u>Post-Petition</u>
TOTALS:					447,898.41	171,514.12	276,384.29
41250A	02/01/2003	01/31/2006	36	0	81,718.06	31,455.86	50,262.20
41250B	02/01/2003	01/31/2006	36	0	36,179.24	25,052.88	11,126.36
4126-66250-05	06/01/2003	05/31/2006	36	0	17,189.28	0.00	17,189.28
4126-66250-06	09/01/2003	08/31/2006	36	0	44,360.00	13,308.00	31,052.00
4126-66250-07	05/01/2004	04/30/2007	36	0	4,817.21	0.00	4,817.21
4126-66250-08	10/01/2004	09/30/2007	36	0	32,556.24	14,405.02	18,151.22
4126-66250-09	07/01/2005	06/30/2008	36	9	231,078.38	87,292.36	143,786.02

EXHIBIT B

